

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RANDALL B. FRITZ,

Plaintiff,

vs.

Case No. 07-CV-12395
HON. GEORGE CARAM STEEH

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

_____ /

ORDER ACCEPTING REPORT AND RECOMMENDATION (#15):
DENYING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT (# 13);
DENYING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT (# 11); AND
REMANDING TO THE ALJ

This matter is before the court on the parties' cross-motions for summary judgment as to plaintiff Randall Fritz's claim for judicial review of defendant Commissioner of Social Security's denial of his application for disability income benefits. The matter was referred to Magistrate Judge Donald A. Scheer. On October 18, 2007, Magistrate Judge Scheer issued an 8-page Report and Recommendation recommending that defendant's motion for summary judgment be denied, that plaintiff's motion for summary judgment be denied, and that the matter be remanded to the Administrative Law Judge ("ALJ") for further proceedings, including testimony of a vocational expert addressing the issue of whether alternative jobs existed in the national economy between March 2001 and April 2004 that Fritz could perform given his postural and manipulative limitations. Magistrate Judge Scheer reasons that the ALJ erred by applying Rule 202.14, Subpart P of Appendix 2 of the Medical Vocational Guidelines (known as "the grid") in finding that Fritz was not qualified to receive benefits because the record supports Fritz's allegations that he suffers

from nonexertional limitations that prevented him from performing a full range of light work prior to April 2004, and the grid is not fully applicable in this situation, citing Kirk v. Secretary, 667 F.2d 524 (6th Cir. 1981). No party has filed timely objections to the Report and Recommendation. See 28 U.S.C. § 636(b)(1); E.D. Mich. L.R. 72.1(d)(2).

Having reviewed the record and Report and Recommendation, and in the absence of timely objections, the court hereby ACCEPTS Magistrate Judge Scheer's well reasoned Report and Recommendation as its own. Defendant's motion for summary judgment is hereby DENIED. Plaintiff's motion for summary judgment is hereby DENIED. This matter is hereby REMANDED to the ALJ for further proceedings as outlined in the Report and Recommendation.

SO ORDERED.

Dated: November 9, 2007

s/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on November 9, 2007, by electronic and/or ordinary mail.

s/Josephine Chaffee
Deputy Clerk